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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,388	01/09/2004	Kang-Ping Lin	MR2561-137	6089
4586	7590	07/05/2007		
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			EXAMINER KAHELIN, MICHAEL WILLIAM	
			ART UNIT 3762	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/753,388

Applicant(s)

LIN ET AL.

Examiner

Michael Kahelin

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-6, 13-18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 13-18, 21, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-18, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regards to claim 13, the "operating panel" has been set forth as being on the top surface. Therefore, it is unclear how the "one gelless electrode" can be on opposing sides of the operating panel because the "top surface" cannot have opposing sides. Additionally, the "two pairs of gelless electrodes" are lacking antecedent basis because only "two first gelless electrodes" have been set forth.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

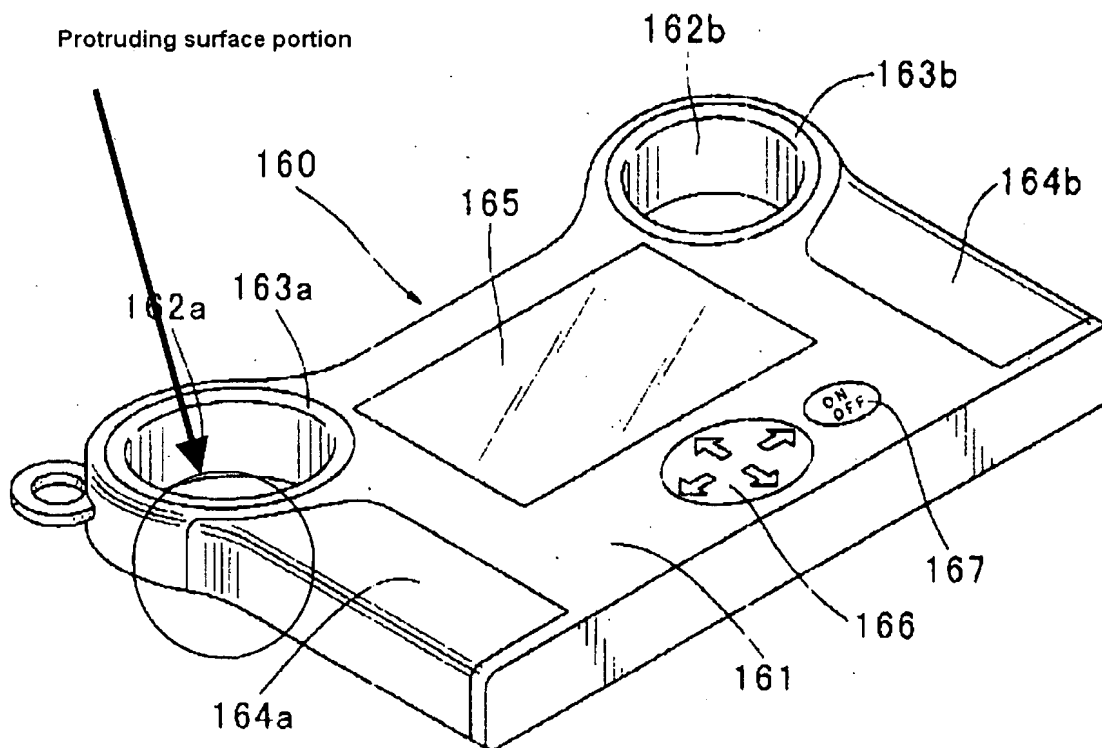
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 2, 13, 14, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamada et al. (US 6,714,814, hereinafter "Yamada").

5. In regards to claims 1 and 13, Yamada discloses a handheld pulse measuring device (col. 23, line 18) comprising a shell having a top and bottom surface, shaped like a cube, and having an operating panel (Fig. 23). Further, Yamada discloses two gelless electrodes (164a and 164b) extending along the upper surface and passing over the edge to the bottom surface having a protruding surface portion to form a surface capable of being grasped by the root area between a user's fingers; an information display (165); and a calculation system (Fig. 5) for displaying electrical information. Please note that Yamada's invention is capable of meeting the electrode's functional recitation of "for detecting electrocardiogram signals" because an electrode senses any electrical signal that impinges on the electrode and no limitation is placed on actual analysis or display of the ECG signal.

FIG. 23



6. In regards to claim 2 and 14, the operating panel has at least one button (166 and 167).

7. In regards to claim 22, the device further comprises two second electrodes fixed in the bottom surface (163a and 163b; not how the "rims" are exposed to the surface normal to the axis of the holes, satisfying the "fixed in the bottom surface" limitation).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4, 15, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada. Yamada discloses the essential features of the claimed invention except for electrodes made of metal or conductive rubber or a cover for the operating panel. It is well known in the art to utilize metal or conductive rubber electrodes to provide a sensing means that is inexpensive and possesses low resistance, and to provide covers for displays to protect the highly fragile and relatively expensive display component. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yamada's invention by providing metal or conductive rubber electrodes to provide a sensing means that is inexpensive and possesses low resistance, and to provide a cover for the display to protect the highly fragile and relatively expensive display component.

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11. Claims 5, 6, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al. (US 2003/0120164, hereinafter "Nielsen") in view of Yamada. Nielsen discloses the essential features of the claimed invention including an ECG monitor having electrodes wherein information values are determined including ST segment, QRS interval, and heart rate (par. 0071) and the calculation system comprises a pre-amplify circuit (125 and par. 0030), amplify/filter circuit (180), A/D converter (170), and CPU (182) to display ECG data (120). Nielsen does not explicitly disclose that the specific calculated parameters are displayed or the claimed housing configuration. It is well known in the art to display various parameters to allow a clinician to gain an understanding of various parameters that will allow diagnosis and treatment of disease. Further, Yamada teaches of providing the claimed housing configuration to allow the diagnosis device to be easily held in the hands, avoid dropping (col. 22, line 66), and provide smaller contact resistance (col. 22, line 62), thusly improving sensor performance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nielsen's invention by providing a means to display various parameters to allow a clinician to gain an understanding of various parameters that will allow diagnosis and treatment of disease, and provide the claimed housing configuration to allow the diagnosis device to be easily held in the hands, avoid dropping, and provide smaller contact resistance, thusly improving sensor performance.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1, 2, 4-6, 13-18, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection, necessitated by amendment.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571) 272-8688. The examiner can normally be reached on M-F, 9-5.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWK

*MWK*

6/19/07

GEORGE R. EVANISKO  
PRIMARY EXAMINER

6/22/07